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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

IN RE: HIGH-TECH EMPLOYEE )  
ANTITRUST LITIGATION )  
 ) No. 11-CV-2509-LHK  
THIS DOCUMENT RELATES TO: )  
ALL ACTIONS. )  
\_\_\_\_\_ )

HIGHLY CONFIDENTIAL  
VIDEO DEPOSITION OF PATRICK BURKE  
February 26, 2013

REPORTED BY: GINA V. CARBONE, CSR NO. 8249, RPR, CCRR

10:12:16 1 and source candidates for us.

10:12:17 2 Q. Well, were there -- were there particular types  
10:12:20 3 of research they did or data they gathered?

10:12:24 4 MR. TUBACH: Lacks foundation.

10:12:27 5 THE WITNESS: No. I mean, it's a broad  
10:12:30 6 description of service that they provided.

10:12:39 7 MR. SAVERI: Q. I asked you a few minutes  
10:12:41 8 ago about the -- about your role with respect to  
10:12:48 9 placing new hires in the salary structure. Let me  
10:12:50 10 ask some more questions about that.

10:12:53 11 A. Sure.

10:12:55 12 Q. So as a general matter, when Apple determined  
10:12:59 13 that it needed to fill a certain job, who decided what  
10:13:06 14 the salary range for that job would be?

10:13:09 15 MR. TUBACH: Lacks foundation. Calls for  
10:13:09 16 speculation.

10:13:12 17 THE WITNESS: For a particular candidate that  
10:13:14 18 we were hiring?

10:13:15 19 MR. SAVERI: Q. Yes.

10:13:16 20 A. The hiring manager was the ultimate decision,  
10:13:19 21 and recruiters and HR representatives would help and  
10:13:26 22 influence.

10:13:27 23 Q. Well, was it generally the practice that a  
10:13:32 24 range was established for a particular job that needed  
10:13:37 25 to be filled?

10:13:39 1 A. No.

10:14:01 2 Q. So during your time, you hired or recruited  
10:14:09 3 engineers, correct?

10:14:11 4 A. That's all I did. Yes.

10:14:12 5 Q. Now, for any particular engineering candidate,  
10:14:16 6 how was the salary range established for that potential  
10:14:21 7 candidate?

10:14:21 8 MR. TUBACH: Objection. Asked and answered.  
10:14:23 9 Lacks foundation.

10:14:25 10 THE WITNESS: It wasn't a salary range  
10:14:28 11 determined, it was what salary we were going to offer.

10:14:33 12 MR. SAVERI: Q. Okay.

10:14:33 13 A. And how that was determined was mostly asking  
10:14:37 14 the hiring manager who they compared to in the team,  
10:14:40 15 looking at the candidate's education, experience, and  
10:14:44 16 knowledge within that experience, and comparing that to  
10:14:48 17 different people on their team. And those were the  
10:14:52 18 biggest deciphering things.

10:14:54 19 Now, each person on their team that they  
10:14:57 20 compared to were at particular levels and titles and,  
10:15:03 21 you know, levels within the salary ranges. And that's  
10:15:05 22 more what determined it.

10:15:07 23 And then sometimes, depending on where -- the  
10:15:09 24 number that we determined for a particular candidate, we  
10:15:13 25 would look where it falls in with a particular salary

10:15:15 1 range, was that comfortable. There were certain  
10:15:19 2 guidelines that they didn't want to be too high of one  
10:15:22 3 particular one, or too low, and that's where kind of  
10:15:25 4 sometimes HR would get involved to do it. But it was  
10:15:28 5 generally guided by other people on the team and how  
10:15:31 6 they compared to them.

10:15:34 7 MR. SAVERI: Q. As part of that process --  
10:15:35 8 well, strike that.

10:15:40 9 When was the system title for a particular  
10:15:46 10 candidate or new hire established?

10:15:49 11 A. At that time.

10:15:50 12 Q. Okay.

10:15:51 13 A. So it's -- we -- in the recruiting system, when  
10:15:56 14 we opened a position, we would open it up at -- there is  
10:16:01 15 two levels, say it was a two and a three. But we had,  
10:16:05 16 you know, kind of flexibility to, hey, if we're hiring  
10:16:08 17 and we determined that the salary range what we were  
10:16:10 18 figuring that would be a four, we could change that in  
10:16:14 19 the system and make that happen.

10:16:16 20 Q. And who had to approve that change, just  
10:16:19 21 organizationally? Was it Tony Fadell? Was it someone  
10:16:23 22 in the HR department? Was it you?

10:16:25 23 A. There was no approving of the change, it was  
10:16:27 24 approving of the offer.

10:16:28 25 Q. Okay.

10:16:28 1 A. So it was once we determined with the hiring  
10:16:30 2 manager, we would make that change in the system, but  
10:16:33 3 then that would be -- we would make the offer, put  
10:16:34 4 that -- those numbers and everything to it, and put that  
10:16:37 5 up through the management chain, which included Tony  
10:16:41 6 Fadell and the iPod division.

10:16:44 7 But that's how it was for any of the divisions  
10:16:47 8 in Apple that I was involved with.

10:16:57 9 Q. As a general matter, who communicated to the  
10:16:59 10 candidates regarding compensation packages?

10:17:03 11 A. Mostly the recruiter.

10:17:04 12 Q. So sometimes it was you?

10:17:06 13 A. Yes.

10:17:07 14 Q. And then sometimes it was the recruiters that  
10:17:09 15 you supervised?

10:17:10 16 A. Yes. And then sometimes, you know, every once  
10:17:12 17 in a while it was a hiring manager.

10:17:20 18 Q. So did you ever make recommendations regarding  
10:17:22 19 base salary for particular candidates?

10:17:25 20 A. Yes.

10:17:26 21 Q. And what were -- what were those  
10:17:29 22 recommendations generally based on? Those same criteria  
10:17:32 23 that we've been --

10:17:34 24 A. What salary they were currently at, what salary  
10:17:36 25 they were looking for, what competing offers were. But

10:17:42 1 it was always determined by how they compared to other  
10:17:46 2 people. And then if that didn't quite match up with  
10:17:48 3 their expectations, I'd advise kind of the hiring  
10:17:52 4 manager do we want to push that up a little higher. If  
10:17:56 5 their expectations were higher, do we want to push that  
10:17:58 6 higher or a hiring bonus to make up the difference.

10:18:02 7 Those were some of the components that we would do.

10:18:08 8 Basically advise. Advise on what makes sense,  
10:18:11 9 what we call internally, versus what will close the  
10:18:18 10 deal.

10:18:18 11 Q. I think you said a few seconds ago that when  
10:18:21 12 you did that, one of the things you looked at was -- or  
10:18:25 13 what you tried to do was compare the candidate you were  
10:18:30 14 talking to to other people?

10:18:34 15 A. Other engineers at similar levels on the team,  
10:18:37 16 yes.

10:18:37 17 Q. That's what I wanted to get. When you said  
10:18:39 18 other people, were you talking about other people at  
10:18:41 19 Apple?

10:18:42 20 A. Yes.

10:18:43 21 Q. When you were determining yourself, or making a  
10:18:46 22 recommendation on salary, did you also look at  
10:18:51 23 information or data regarding compensation outside the  
10:18:55 24 company?

10:18:56 25 A. No.

10:18:56 1 Q. I mean, for example, did you look at what they  
10:18:58 2 were making before at their other company?

10:19:03 3 MR. TUBACH: Vague and ambiguous.

10:19:03 4 You mean what the prospective employee was  
10:19:06 5 making --

10:19:06 6 MR. SAVERI: Yes.

10:19:07 7 MR. TUBACH: -- at his current job?

10:19:08 8 THE WITNESS: I would ask the candidate what  
10:19:10 9 their current compensation was. For the most part they  
10:19:12 10 shared that, sometimes they did not.

10:19:14 11 MR. SAVERI: Q. Did you also consider what  
10:19:16 12 the market was for particular skill sets,  
10:19:23 13 qualifications, with respect to the people you were  
10:19:27 14 recruiting?

10:19:27 15 A. That's a broad statement. It was probably more  
10:19:30 16 driven by competing offers.

10:19:32 17 Q. Okay.

10:19:33 18 A. Either of that particular candidate or similar  
10:19:37 19 candidates.

10:19:38 20 Q. So are you aware that there are companies that,  
10:19:40 21 for example, do compensation surveys of the market?

10:19:50 22 A. Yes.

10:19:51 23 Q. I mean, for example, have you heard the name  
10:19:53 24 Croner?

10:19:55 25 A. No.

10:19:55 1 Q. Or Radford?

10:19:56 2 A. Yes.

10:19:57 3 Q. Okay. And have you seen Radford surveys from  
10:20:00 4 time to time?

10:20:01 5 A. No.

10:20:01 6 Q. Did you ever use Radford Survey data, or other  
10:20:06 7 similar data, regarding levels of compensation in the  
10:20:11 8 market in doing your job with respect to recommending  
10:20:15 9 compensation for particular candidates?

10:20:20 10 A. Never.

10:20:20 11 Q. So in terms of comparison, is it fair to say  
10:20:22 12 that when you were making recommendations, you tried to  
10:20:30 13 make a comparison of the candidate you were talking to  
10:20:33 14 to other people at Apple?

10:20:35 15 MR. TUBACH: Objection. Asked and answered.

10:20:37 16 THE WITNESS: Compared the candidate to the  
10:20:40 17 people at Apple on the team that we were hiring them in.

10:20:45 18 MR. SAVERI: Q. When you made a  
10:20:47 19 recommendation, did you consider whether or not this  
10:20:57 20 new candidate was going to be getting paid more for  
10:21:03 21 a similar job than people who were already at Apple?

10:21:08 22 MR. TUBACH: Vague and ambiguous.

10:21:08 23 THE WITNESS: Yes, can you....

10:21:11 24 MR. SAVERI: Q. Well, was one of your  
10:21:12 25 concerns that you didn't want -- when you were



10:21:14 1 hiring a new candidate and you were talking about  
10:21:16 2 compensation, when you wanted to get that right, did  
10:21:20 3 you think about whether or not you were -- you were  
10:21:24 4 going to pay a candidate more than someone else who  
10:21:27 5 was already at Apple doing a similar job?

10:21:30 6 MR. TUBACH: Same objection.

10:21:33 7 THE WITNESS: That was a determining factor,  
10:21:35 8 but it was, again, more about how they compared to those  
10:21:39 9 people. And so the hiring manager would usually not  
10:21:43 10 want to pay more than a person with similar or more  
10:21:49 11 experience at Apple.

10:21:51 12 So we called it internal equity or fair  
10:21:54 13 compensation. And we would want to kind of keep it fair  
10:21:58 14 to the team on board. Just because this person was  
10:22:00 15 asking for more money than someone with similar  
10:22:06 16 experience on the team didn't mean we just gave it to  
10:22:09 17 him. We would keep it fair to the people, and [REDACTED]

10:22:13 18 [REDACTED]

10:22:18 19 [REDACTED]

10:22:21 20 MR. SAVERI: Q. Okay. How important did  
10:22:39 21 you think recruiting was to the success of Apple?

10:22:41 22 MR. TUBACH: Vague and ambiguous. Lacks  
10:22:43 23 foundation.

10:22:45 24 THE WITNESS: Very important.

10:22:49 25 MR. SAVERI: Q. Why was it very important?

10:22:51 1 MR. TUBACH: Same objections.

10:22:56 2 THE WITNESS: Growth of the business. We  
10:22:59 3 needed people to -- more engineers to make their  
10:23:04 4 products of the ideas that they came up with. Steve  
10:23:07 5 Jobs thought it was -- you know, he would mention that  
10:23:11 6 40 percent of his time was recruiting, whatever that  
10:23:16 7 meant.

10:23:16 8 MR. SAVERI: Q. Well, a hundred percent of  
10:23:18 9 yours was, right?

10:23:18 10 A. Yes. But it was always good to have someone at  
10:23:21 11 the -- as a leader that thinks that recruiting, you  
10:23:24 12 know, your job, is important.

10:23:27 13 Q. Well, okay. Did you understand that Mr. Jobs  
10:23:32 14 had a personal commitment to recruiting top talent to  
10:23:37 15 Apple?

10:23:39 16 A. I don't know. I'm assuming so by saying 40  
10:23:40 17 percent of his time was spent on recruiting.

10:23:43 18 Q. Well, did you understand, yourself, that your  
10:23:45 19 job, with respect to recruiting top talent to Apple, was  
10:23:48 20 very important to the company?

10:23:51 21 MR. TUBACH: Lacks foundation.

10:23:52 22 THE WITNESS: I personally thought that, yes.

10:24:02 23 MR. SAVERI: Q. Did you ever talk with  
10:24:03 24 Mr. Jobs about that subject?

10:24:04 25 A. Never talked to him.

10:24:06 1 Q. You never talked to him?

10:24:07 2 A. No.

10:24:10 3 Q. Just so I'm clear, you never spoke to Steve

10:24:12 4 Jobs in your life?

10:24:13 5 A. No.

10:24:14 6 Q. Okay. Did you ever communicate to him in

10:24:16 7 writing?

10:24:20 8 A. No.

10:24:22 9 Q. Did you ever go to meetings or participate in

10:24:26 10 kind of group circumstances where Steve Jobs addressed

10:24:35 11 people at Apple or communicated his thoughts about the

10:24:37 12 company?

10:24:38 13 A. Yes.

10:24:38 14 Q. During any of those, did he talk about the

10:24:40 15 importance of recruiting top talent to the company --

10:24:42 16 A. Yes.

10:24:42 17 Q. -- that you recall.

10:24:44 18 What did he say about that?

10:24:45 19 A. I can't recall. Something along those lines

10:24:47 20 of -- that it's important to recruit top talent. But I

10:24:51 21 don't remember any specific statements.

10:24:53 22 Q. But you do remember him, at least on one

10:24:57 23 occasion, talking to people internal at Apple about how

10:25:00 24 important recruiting top talent was to the company?

10:25:03 25 A. Uh-huh.

10:25:03 1 Q. Did you ever hear him talk about how concerned  
10:25:10 2 or -- how concerned he was or how important it was to  
10:25:13 3 Apple that Apple retain top talent?

10:25:15 4 A. No.

10:25:16 5 Q. Okay.

10:25:44 6 (Discussion off the record.)

10:25:46 7 (Whereupon, Exhibit 1015 was marked for  
10:25:46 8 identification.)

10:25:47 9 MR. SAVERI: Q. So Mr. Burke, if you need  
10:25:49 10 to take a break at any time, let me know. Otherwise  
10:25:52 11 I'm going to keep going and try to get this done as  
10:25:56 12 soon as possible.

10:25:56 13 A. Go until my water is up.

10:25:59 14 Q. Let me hand you what's been marked as  
10:26:02 15 Exhibit 1015. And this is a document that has Bates  
10:26:14 16 numbers, which are the little numbers in the corner, of  
10:26:17 17 231APPLE055897 to 99.

10:26:35 18 And Mr. Burke, if you take a moment to look at  
10:26:37 19 it, I'm going to just ask you about the portion of the  
10:26:42 20 document that looks like something you wrote. It's a  
10:26:44 21 little bit weird because it looks like this document  
10:26:47 22 kind of repeats the same thing in two places. And maybe  
10:26:52 23 the easiest way to do this is just to look at what's on  
10:26:55 24 the last page.

10:26:56 25 A. Uh-huh.

02:00:29 1 didn't leave unattended, right?

02:00:32 2 A. Correct. That's an assumption. That's a term,  
02:00:34 3 "walking out," is grab your stuff, let's go.

02:00:39 4 Q. So it was more of an order than a request,  
02:00:42 5 correct?

02:00:43 6 A. Uh-huh.

02:00:44 7 MR. TUBACH: Are you talking about generally or  
02:00:45 8 are you talking about this Motorola HR --

02:00:47 9 MR. SAVERI: Q. When you read this, what  
02:00:49 10 you understand him to mean by walking someone out.

02:00:53 11 A. That's what the term means, is your employment  
02:00:55 12 is done, we don't want you to stick around for the two  
02:00:58 13 weeks' notice that you gave, or whatever notice that you  
02:01:00 14 gave.

02:01:01 15 Q. And sometimes people who are walked out are  
02:01:04 16 escorted by security, right?

02:01:06 17 MR. TUBACH: Lacks foundation.

02:01:06 18 THE WITNESS: I don't know.

02:01:07 19 MR. SAVERI: Q. Well, did -- when Mr. Cong  
02:01:11 20 wrote, "come down strong with a counter," what did  
02:01:14 21 you understand him to mean there?

02:01:16 22 A. A counteroffer to stay.

02:01:18 23 Q. So did you understand that Mr. Cong was saying  
02:01:26 24 that Motorola might walk this candidate out or respond  
02:01:34 25 to Apple's offer with a counteroffer?

02:01:38 1 A. Correct. Not necessarily in that order.

02:01:42 2 [REDACTED]

02:01:46 3 [REDACTED]

02:01:49 4 [REDACTED] [REDACTED]

02:01:55 5 [REDACTED]

02:01:59 6 [REDACTED]

02:02:02 7 Q. Usually makes sense to do them in that order,  
02:02:04 8 right?

02:02:05 9 A. Yes.

02:02:20 10 Q. Did it happen from time to time that candidates  
02:02:26 11 that Apple recruited through cold calls, to whom Apple  
02:02:33 12 eventually made a job offer, sometimes stayed with their  
02:02:36 13 current employers because the current employer made a  
02:02:39 14 counteroffer?

02:02:41 15 A. I can't -- I don't know if as far as from that  
02:02:44 16 exact source of cold calling, but over my employment at  
02:02:48 17 Apple, that happened several times at different stages  
02:02:53 18 where from acceptance to giving notice to, you know,  
02:02:57 19 that they would go back with their employer or stay with  
02:03:01 20 their employer.

02:03:04 21 Q. And from time to time, did the counteroffers  
02:03:10 22 that candidates that Apple recruited receive from their  
02:03:19 23 current employers include increased compensation?

02:03:22 24 MR. TUBACH: Lacks foundation. Calls for  
02:03:22 25 speculation.

02:03:25 1 THE WITNESS: I'm not sure. I mean, it was --  
02:03:28 2 there were -- there was several -- in general, there are  
02:03:32 3 several aspects to it. Increased compensation, title,  
02:03:38 4 different projects, whatever is not making them happy,  
02:03:42 5 hopefully they could fix to stay, and that might be one  
02:03:46 6 of those factors.

02:03:47 7 MR. SAVERI: Q. So is it fair to say that  
02:03:54 8 sometimes Apple was unsuccessful in recruiting a  
02:03:58 9 candidate because the candidate's current employer  
02:04:01 10 made a counteroffer that the candidate preferred?

02:04:08 11 MR. TUBACH: Lacks foundation.

02:04:09 12 THE WITNESS: Yes.

02:04:10 13 MR. SAVERI: Q. And did the candidates who  
02:04:14 14 stayed tell you at Apple, from time to time, what  
02:04:20 15 the counteroffer was and why they stayed?

02:04:24 16 A. We would probe into that, yes.

02:04:27 17 Q. And from time to time, did, in response to  
02:04:31 18 those questions, did the candidate tell you, for  
02:04:35 19 example, well, they gave me a promotion?

02:04:40 20 A. Uh-huh.

02:04:41 21 Q. Or they changed my job duties in a way that I  
02:04:44 22 liked?

02:04:46 23 A. Those were some of the reasons, yes.

02:04:48 24 Q. And sometimes they would raise their  
02:04:51 25 compensation?

02:04:52 1 A. Yes.

02:04:53 2 Q. And sometimes it would be a combination of  
02:04:55 3 those things?

02:04:56 4 A. Yes.

02:04:56 5 Q. And sometimes a combination of those things and  
02:05:01 6 other improvements to their job situation?

02:05:04 7 A. Correct.

02:05:20 8 (Whereupon, Exhibit 1026 was marked for  
02:05:20 9 identification.)

02:05:20 10 MR. SAVERI: Q. Exhibit 1026. Do you have  
02:05:35 11 that in front of you?

02:05:36 12 A. Yes.

02:05:38 13 Q. This document is an email, looks like it's all  
02:05:46 14 an email, with the Bates No. 231APPLE061813 through 817.  
02:05:53 15 Do you have that in front of you?

02:05:54 16 A. Yes.

02:05:55 17 Q. Would you take a moment to review it, please.

02:06:00 18 A. Yes.

02:06:04 19 Q. Some of it you'll recognize as part of -- some  
02:06:06 20 of this you will recognize as the previous document.

02:06:09 21 A. Yep.

02:06:48 22 Okay.

02:06:51 23 Q. Do you recognize this document?

02:06:52 24 A. Yes.

02:06:53 25 Q. Could you tell me what it is, please.



02:06:55 1 A. It's the same document from Jose Cong, passing  
02:06:59 2 along to Dani Lambert and my direct boss, Ed Sermone,  
02:07:07 3 about this candidate, about the situation that after  
02:07:13 4 giving notice, what heat, as they said, what -- from the  
02:07:20 5 candidate -- the Motorola candidate is getting from  
02:07:23 6 Motorola for, you know, giving notice, saying that he's  
02:07:26 7 going to Apple, and then really probing him further than  
02:07:30 8 the normal candidate giving notice. So....

02:07:34 9 Q. Now, did you write the email to Ed Sermone on  
02:07:39 10 the 28th of October 2005 as indicated here?

02:07:43 11 A. To Dani Lambert, cc'ing Ed, yes.

02:07:47 12 Q. Okay. Now -- and at this time, was Ed Sermone  
02:07:51 13 your direct boss?

02:07:52 14 A. Correct.

02:07:53 15 Q. And was Dani Lambert Ed Sermone's boss?

02:07:57 16 A. Yes.

02:07:58 17 Q. Why did you write this to Dani Lambert?

02:08:01 18 A. Because Dani was the one that told me about the  
02:08:03 19 agreement. And as referenced in this, when Dani told me  
02:08:11 20 about this agreement, that we told Dani about this  
02:08:18 21 candidate we were already in discussions with before the  
02:08:21 22 agreement, and for her to ask Steve Jobs if it was okay  
02:08:24 23 for us to pursue and he gave that blessing. Now this is  
02:08:27 24 the aftermath of it. Of the person accepting, giving  
02:08:31 25 notice.

05:28:46 1 Q. And then there are a couple of attachments that  
05:28:48 2 I want to ask you about. Okay?

05:29:09 3 A. Okay.

05:29:16 4 Q. First, just for foundational purposes, you were  
05:29:21 5 a -- were you a recipient of emails to the staffing  
05:29:25 6 department email group that's listed here?

05:29:30 7 A. Yes.

05:29:31 8 Q. Okay. And Ms. Montesino, in her email, refers  
05:29:35 9 to something called the Staffing Wiki. Do you see that?

05:29:39 10 A. Yes.

05:29:40 11 Q. What was the Staffing Wiki?

05:29:44 12 A. It is a centralized website for information  
05:29:49 13 with password protected for certain people to have  
05:29:52 14 access to it and this was the staffing management.

05:29:57 15 Q. Did you have access to it?

05:29:58 16 A. Yes.

05:29:58 17 Q. And from time to time, did you use the  
05:29:59 18 information on the wiki for purposes of doing your job?

05:30:04 19 A. Very rarely.

05:30:05 20 Q. Okay. What information on that did you use?

05:30:09 21 A. I rarely used it.

05:30:11 22 Q. Okay. There is something -- she also refers to  
05:30:13 23 something called a Functional Job Matrix and leveling  
05:30:15 24 guides. Do you see that?

05:30:18 25 A. Uh-huh.

05:30:18 1 Q. Are those two things or one thing?

05:30:27 2 A. I'm not familiar with those terms.

05:30:30 3 Q. Okay.

05:30:32 4 A. Job matrix. Yeah, I'm not familiar with those  
05:30:45 5 terms.

05:30:45 6 Q. So you don't know what a -- what she meant when  
05:30:47 7 she referred to a Functional Job Matrix?

05:30:54 8 MR. TUBACH: Asked and answered.

05:30:54 9 THE WITNESS: Not directly, no.

05:30:55 10 MR. SAVERI: Q. And do you know what a  
05:30:56 11 leveling guide is?

05:30:58 12 A. No.

05:30:59 13 Q. Did -- are you familiar with the term or the  
05:31:09 14 concept of job leveling with respect to salary  
05:31:11 15 structures?

05:31:18 16 A. Job leveling. Job leveling -- job levels are  
05:31:21 17 the particular engineer, one, two, three, four, five,  
05:31:25 18 six, sort of thing, for example, and then each one of  
05:31:28 19 those has a salary range. So from that perspective,  
05:31:31 20 yes.

05:31:33 21 Q. Now, Mr. Bentley, in his email, looks like he's  
05:31:45 22 attaching two documents, one called a US  
05:31:49 23 BaseSalary\_Structure and one that has to do with RSUs  
05:31:55 24 for fiscal year '09 new hire stock. Do you see that?

05:32:02 25 A. Uh-huh.

05:32:02 1 Q. Let's look at the attachments. Let me ask you  
05:32:04 2 a couple questions about them.

05:32:05 3 First, let's focus on the Base Salary  
05:32:08 4 Structures.

05:32:12 5 A. Which one is that?

05:32:13 6 Q. It looks like it's -- begins on APPLE009282.

05:32:18 7 A. Yep.

05:32:19 8 Q. First of all, do you know what these charts  
05:32:21 9 are?

05:32:22 10 A. Yes.

05:32:22 11 Q. What are they?

05:32:23 12 A. They are -- the job codes or these job  
05:32:28 13 numbers --

05:32:28 14 Q. Right.

05:32:28 15 A. -- those relate to particular job codes. And  
05:32:38 16 in Merlin, which is our internal HRS, there was a  
05:32:43 17 correlating job title that went along with job codes in  
05:32:46 18 particular groups.

05:32:47 19 Q. Did you use these Base Salary Structures for  
05:32:52 20 when you were doing your recruiting or sourcing?

05:32:54 21 MR. TUBACH: At this time you mean?

05:32:55 22 MR. SAVERI: Yeah.

05:32:56 23 THE WITNESS: I'm sorry, what?

05:32:57 24 MR. TUBACH: Sorry.

05:32:58 25 Go ahead.

05:32:59 1 THE WITNESS: Not in recruiting or sourcing,  
05:33:00 2 no.

05:33:01 3 MR. SAVERI: Q. Well, did you use these,  
05:33:04 4 either these Base Salary Structures tables or  
05:33:08 5 previous versions of these in your job?

05:33:12 6 A. Yes. To make offers.

05:33:14 7 Q. Okay. And how would you use them to make  
05:33:16 8 offers? Or how did you use them to make offers?

05:33:20 9 A. Mostly, there is kind of two steps. You would  
05:33:25 10 compare the candidate you were looking to to other  
05:33:29 11 people on the team to figure out what level they would  
05:33:34 12 be coming in at. And that was mostly to figure out what  
05:33:38 13 level stock. But who we compared it to was the biggest  
05:33:42 14 determining factor on what salary we gave. And then see  
05:33:46 15 if it -- what -- what salary was matching up with the  
05:33:52 16 levels and the position in the level.

05:33:54 17 Q. So is it fair to say when you made offers to  
05:33:59 18 particular candidates, you used these -- you used  
05:34:03 19 information like this regarding base salary structures  
05:34:07 20 in order to determine what job title a person would be  
05:34:12 21 offered and the range of salary that would apply to that  
05:34:16 22 person?

05:34:18 23 A. Say that again. I'm sorry.

05:34:20 24 MR. TUBACH: Misstates prior testimony. Vague  
05:34:21 25 and ambiguous.

05:34:23 1 MR. SAVERI: Q. Let me break it up into  
05:34:23 2 pieces. I think you said you used either this table  
05:34:26 3 or other versions of this table when you were making  
05:34:30 4 offers to candidates, correct?

05:34:32 5 MR. TUBACH: Misstates prior testimony.

05:34:34 6 THE WITNESS: It was a portion of it, yes.

05:34:37 7 MR. SAVERI: Q. Okay. And --

05:34:39 8 A. Or this information that was in the HRS system.  
05:34:42 9 I didn't always have to pull out these tables. Yes.

05:34:45 10 Q. Okay. But is it fair to say that there was  
05:34:49 11 information like this available in paper form or in  
05:34:53 12 electronic form that you had access to?

05:34:56 13 A. They're embedded within the HRS system, yes.

05:34:59 14 Q. When you say the HRS system, what's that?

05:35:02 15 A. It's our human resources information system.  
05:35:07 16 So we had our homegrown kind of a PeopleSoft or SAP or  
05:35:10 17 Oracle sort of thing. We had our homegrown, so when we  
05:35:13 18 opened a position within the Merlin, we would open it  
05:35:16 19 up, say, at a level two and a level three, and each one  
05:35:19 20 of those had a salary range that went with that.

05:35:22 21 So when we were doing that, I didn't  
05:35:24 22 necessarily -- that's a system that we dealt with daily,  
05:35:27 23 so I didn't necessarily need to bring out a paper  
05:35:30 24 version.

05:35:31 25 Q. Fair enough.

05:35:32 1 A. And these don't relate to any recruiting I did.

05:35:35 2 I don't know what these were for.

05:35:37 3 Q. Okay. We talked earlier today about something  
05:35:40 4 called a system title?

05:35:42 5 A. Yes.

05:35:43 6 Q. Are these codes or these job codes equivalent  
05:35:47 7 to system titles or is this something else?

05:35:49 8 A. They -- they equate. There is -- each system  
05:35:53 9 title has a job code that matches to one of these, yes.

05:35:56 10 Q. When you say job code, do you mean these codes  
05:35:59 11 that are in the job column --

05:36:00 12 A. Yes.

05:36:00 13 Q. -- of these tables?

05:36:02 14 A. Yes.

05:36:03 15 Q. And is it fair to say that everybody who worked  
05:36:04 16 for Apple was assigned to one of these job codes or job  
05:36:08 17 titles?

05:36:09 18 A. Some sort of job code and title, yes.

05:36:12 19 Q. And for each of those, was there a salary range  
05:36:16 20 established in the HRS system?

05:36:19 21 A. Yes.

05:36:21 22 Q. And was the base compensation for each person  
05:36:30 23 within a particular job code somewhere between the  
05:36:36 24 minimum and maximum of that range?

05:36:38 25 A. For the most part, there were exceptions where

05:36:42 1 somebody would be not, you know, because it wasn't just  
05:36:46 2 salary, it was some definitions of skill set and  
05:36:51 3 different things that maybe -- that would be required or  
05:36:57 4 define you to get to the next level.

05:36:59 5 And if they -- yes, their salary was bucking  
05:37:01 6 up, you know, maybe over the range of the current one,  
05:37:04 7 but they just weren't skill-wise or personality-wise or  
05:37:09 8 different things ready for that next level, they would  
05:37:13 9 keep them in there. And sometimes they would be outside  
05:37:14 10 of that range.

05:37:16 11 Q. So would you agree with me that it was  
05:37:18 12 generally true that each person was assigned to a job  
05:37:21 13 title or job code and their base salary was within the  
05:37:26 14 range established for that code or title?

05:37:29 15 A. Yes.

05:37:29 16 Q. And at the margins there were some exceptions?

05:37:33 17 A. Correct.

05:37:34 18 Q. Was there someone who organizationally had  
05:37:37 19 authority to approve those exceptions?

05:37:41 20 A. There was a multitude of people. Basically,  
05:37:44 21 the business head, someone like Tony Fadell, and then  
05:37:48 22 the human resources person for that division usually had  
05:37:50 23 a good say in it.

05:37:52 24 Q. Well, I mean, for example, if you found a  
05:37:54 25 candidate that fit within a job -- a particular job



05:37:56 1 title and you thought the salary, because of some  
05:38:03 2 discrepancy between that person's skill set and that of  
05:38:06 3 the job needed to be outside the range that was  
05:38:10 4 established, could you decide that or did you need  
05:38:14 5 someone to approve an exception to the ranges?

05:38:16 6 A. All offers were approved by a number of people  
05:38:19 7 in the approval chain, including Tony Fadell. So it was  
05:38:23 8 not my approval. And it was really rare to bring  
05:38:28 9 someone in off the street above a range. It was -- that  
05:38:33 10 was more of an anomaly that happened internally.

05:38:38 11 Q. Did Apple, from time to time, acquire  
05:38:39 12 companies?

05:38:40 13 A. Very rare.

05:38:43 14 Q. Do you -- do you know, or can you describe for  
05:38:51 15 me, the process of how people who were working for  
05:38:55 16 companies that were acquired -- let me ask you a better  
05:39:06 17 question.

05:39:07 18 Do you know how employees of acquired companies  
05:39:11 19 were incorporated into this salary structure?

05:39:15 20 MR. TUBACH: Lacks foundation.

05:39:17 21 THE WITNESS: I don't know, just because I was  
05:39:18 22 never involved in it.

05:39:19 23 MR. SAVERI: Q. And it wasn't something  
05:39:20 24 that you were responsible for?

05:39:22 25 A. It was -- if an acquisition happened in your

05:39:25 1 line of business, then you would run with it and be  
05:39:28 2 involved with it. Just my groups never did it.  
05:39:48 3 (Whereupon, Exhibit 1047 was marked for  
05:39:48 4 identification.)  
05:39:52 5 THE WITNESS: Are we done with this one?  
05:39:54 6 MR. SAVERI: Yeah, I am. Thank you.  
05:39:58 7 I didn't make any copies of this.  
05:40:03 8 I've handed --  
05:40:04 9 MR. TUBACH: This is the document we produced  
05:40:06 10 today?  
05:40:06 11 MR. SAVERI: Yeah. Let me do this and try to  
05:40:08 12 finish it up.  
05:40:09 13 Q. I've handed you Exhibit 1047.  
05:40:10 14 A. Yes.  
05:40:11 15 Q. Can you tell me what that is.  
05:40:12 16 A. My offer letter of employment to join Apple.  
05:40:17 17 Q. And that's a true and correct copy of your  
05:40:19 18 employment letter?  
05:40:19 19 A. Yes.  
05:40:20 20 Q. When you left the company, did you sign any  
05:40:22 21 agreement with the company?  
05:40:23 22 A. No.  
05:40:25 23 Q. Are you -- do you have any ongoing business  
05:40:31 24 relationship with Apple?  
05:40:33 25 A. Define business relationship.

1 I, Gina V. Carbone, Certified Shorthand  
2 Reporter licensed in the State of California, License  
3 No. 8249, hereby certify that the deponent was by me  
4 first duly sworn and the foregoing testimony was  
5 reported by me and was thereafter transcribed with  
6 computer-aided transcription; that the foregoing is a  
7 full, complete, and true record of said proceedings.

8 I further certify that I am not of counsel or  
9 attorney for either of any of the parties in the  
10 foregoing proceeding and caption named or in any way  
11 interested in the outcome of the cause in said caption.

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15 In witness whereof, I have hereunto set my  
16 hand this day: March 11, 2013.

17 \_\_\_\_\_ Reading and Signing was requested.

18 \_\_\_\_\_ Reading and Signing was waived.

19 \_\_\_X\_\_\_ Reading and signing was not requested.

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